



Aspects of an Operating Agreement

Real estate investment can be a lucrative venture, but it's crucial to have a solid legal foundation in place. In this article, we will explore the significance of an operating agreement, a fundamental document for LLC-owned rental properties.

Understanding the Operating Agreement

The operating agreement is a cornerstone document for your Limited Liability Company (LLC). It outlines how the LLC is managed, how income will be allocated and distributed, and contains provisions governing the transfer of LLC interests.

Sole Ownership vs. Co-Ownership

When it comes to sole ownership of an LLC, the operating agreement is typically straightforward. The sole owner makes all decisions for the company since they own all of its interests. However, when multiple owners or "members" are involved, the complexity of the document can increase significantly.

While it may be tempting to find a generic operating agreement template online, it's essential to remember that this document's content should be tailored to your specific circumstances and ownership structure. Collaborating with an attorney from the outset can save you time, money, and future headaches.

Structuring Your LLC: Member Managed vs. Manager Managed

One critical decision is whether your LLC will be "Member Managed" or "Manager Managed." The choice depends on how daily operations are handled and the decision-making authority of specific members.

Member Managed: This is the typical setup when two owners have equal ownership (e.g., 50/50).

Both members can take certain actions individually, but the operating agreement may require unanimous consent for significant decisions.

Manager Managed: This structure is often used when there are three or more members, not all of whom have management authority, or when the majority of interests are held by one or some, but not all, members. For instance, if two members own 45% each, and one owns 10%, it might be wise to designate both 45% members as "Managers" with distinct powers that the 10% member doesn't possess.



Importantly, your LLC's structure isn't set in stone. If circumstances change, such as adding a minority member to a previously 50/50 arrangement, you can amend the operating agreement to reflect the new ownership structure.

Transferring and Managing Interests

Determining whether your LLC should be member or manager managed is only the beginning. You must also address limitations on members' ability to transfer their interests to third parties and establish protocols for what happens to a member's interests in cases of death, disability,

divorce, or other events necessitating a transfer of LLC interests. These topics are complex and require careful consideration.

In conclusion, your LLC's operating agreement is a vital document that shapes the governance and operation of your real estate investment. To ensure that it accurately reflects your unique circumstances and protects your interests, consult with a qualified attorney who specializes in real estate law. They can provide valuable guidance and help you craft an operating agreement that is tailored to your specific needs.